

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WILFREDO ROSARIO

Plaintiff,

-v.-

Civil Action No.
9:12-cv-1506 (GLS/CFH)

CAPTAIN ANSON, Summit Shock
Incarceration Facility; JOHN DOE #1,
Facility Nurse, Summit Shock
Incarceration Facility; JOHN DOE #2,
Primary Care Provider, Hale Creek
Incarceration Facility; CORRECTIONAL
OFFICER BLYTH, Summit Shock
Incarceration Facility

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

WILFREDO ROSARIO
Plaintiff *Pro Se*
2850 Grand Concourse
(198th Street), Apt. #B4
Bronx, New York 10458

FOR THE DEFENDANTS:

HON. ERIC SCHNEIDERMAN
Office of the Attorney General
State of New York
The Capitol
Albany, New York 12224-0341

ROGER W. KINSEY, ESQ.
Assistant Attorney General

GARY L. SHARPE,
CHIEF JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Christian F. Hummel, duly filed August 26, 2013. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED that the Report-Recommendation of Magistrate Judge Christian F. Hummel filed August 26, 2013 (Dkt. No. 38) is ACCEPTED in its entirety for the reasons state therein; and it is further

ORDERED that defendants' motion to dismiss (Dkt. No. 33) be DENIED as to all claims except Rosario's (1) Eighth Amendment deliberate indifference claim against defendant Blyth and (2) Fourteenth Amendment claim of a false misbehavior report against defendant Blyth; and it is further


ORDERED, that defendants John Doe #2 and Blyth be dismissed from this action; and it is further

ORDERED, that plaintiff is granted leave to file an amended complaint as directed above **within thirty (30) days** from the date of the filing of this Order; and it is further

ORDERED, that the Clerk of the Court is to mail copies of the Order to the parties in accordance with the court's local rules.

IT IS SO ORDERED.

Dated: September 17, 2013
Albany, New York



Gary L. Sharpe
Chief Judge
U.S. District Court